S.B.CIVIL MISC. APPEAL NO.1450/2006
(Smt.Lunga Devi & anr. Vs. Manish & ors.)

DATED : 04.10.2006

HON'BLE MR.JUSTICE DINESH MAHESHWARI

Mr. R. K. Bishnoi for the appellants

By way of this appeal, the claimants seek enhancement over the amount of Rs.1,78,600/- awarded by the Motor Accidents Claims Tribunal First, Jodhpur as compensation on account of accidental death of Goparam, husband of appellant No.1 and father of appellant No.2 by its award dated 25.03.2006 in Claim Case No.222/2005.

For the purpose of quantification of compensation, the claimants alleged that the deceased was engaged in the business of selling milk in the village; and stated his income at Rs. 200/- per day in the claim application but asserted such income at Rs. 400/- per day in evidence. For want of any cogent evidence on record, the Tribunal considered it appropriate to estimate his income at Rs.2,400/- per month. The claimants asserted the age of the deceased at 55 years whereas postmortem report gave out his age at 65 years. The Tribunal referred to the age of the deceased stated at 57 years as on 28.02.2003 in the ration card Ex. 13 and, therefore, took

his age at 58 years on the date of accident i.e. 12.07.2004. The Tribunal provided for one-third on personal expenditure of the deceased and taking the dependency at Rs.1,600/- per month applied a multiplier of 8 to assess pecuniary loss at Rs.1,53,600/- (1,600/- x 12 x 8) and added Rs.10,000/- towards funeral expenses and Rs.15,000/- towards non-pecuniary loss to award a sum of Rs. 1,78,600/- towards compensation and also allowed interest @ 7.5% per annum from the date of filing of claim application.

Learned counsel for the claimants contends that the income of the deceased has been taken at abnormally lower figure and multiplier of 8 only also remains on the lower side and the award made by the Tribunal stands much lower than the amount of just compensation and, therefore, needs modification by enhancement. During the course of submissions learned counsel candidly submitted that the age of the deceased has of course been stated at 57 years in the ration card Ex. 13.

Having heard learned counsel for the claimants and having perused the impugned award, this Court is satisfied that the award on its quantification of compensation cannot be said to be inadequate so as to warrant interference in appeal.

So far the age of the deceased is concerned, obviously the claimants did not state his age correctly; and when the

ration card of the deceased itself shows his age at 57 years more than a year prior to the date of accident, the Tribunal was perfectly justified in taking his age at 58 years. The deceased has not been shown engaged in any settled job or business; and in the circumstances of the case, there being no proof of settled income, the estimate taken by the Tribunal of his income at Rs.2,400/- per month and dependency of the claimants at Rs. 1,600/- per month cannot be said to be falling on lower side. On the contrary, in view of the family set up shown, consisting only of three members, and the age of the deceased at nearly 58 years, the contribution from the deceased could have been estimated even lesser than two-third of his estimated income. The Tribunal has reasonably applied the multiplier of 8 in view of the age of the deceased. On the whole, assessment of pecuniary loss at Rs. 1,53,600/- is moderately higher and in any case not inadequate.

Non-pecuniary loss has been awarded at Rs.15,000/- that too is not less than reasonable. Then, the Tribunal has allowed excessive amount of Rs. 10,000/- towards funeral expenses. Rate of interest at 7.5% per annum is also not on the lower side.

In the ultimate analysis, the award made by the Tribunal in the sum of Rs.1,78,000/- with interest @ 7.5% per annum from the date of filing of claim application in the

present case cannot be said to be falling short of just compensation and rather remains on higher side ruling out any scope for enhancement.

The appeal is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

MK